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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHAEL KINWAI KWONG.
940 Post Street, #32
San Francisco, CA 94109

Physical Therapist Assistant License
No. AT 6485

Respondent.

Case No. 1D-2004-64026
OAH No. N2006030611

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Complainant Steven K. Hartzell is the Executive Officer of the Physical
Therapy Board of California. He brought this action solely in his official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by Vivien
H. Hara, Deputy Attorney General.

2. Respondent Michael Kinwai Kwong has chosen not to be represented by
counsel in this proceeding, but he is fully aware of his rights in this matter..

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3. On or about March 5, 2003, the Physical Therapy Board of California issued Physical Therapist Assistant License No. AT 6485 to MICHAEL KINWAI KWONG (“Respondent”). This license was in full force and effect at all times relevant to the charges brought in Accusation No. 1D-2004-64026 and will expire on March 31, 2007, unless renewed.

JURISDICTION

4. Accusation No. 1D-2004-64026 was filed before the Physical Therapy Board of California, Department of Consumer Affairs (“Board”), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1D-2004-64026 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and fully understands the charges and allegations in Accusation No. 1D-2004-64026. Respondent has also carefully read and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily and knowingly waives and gives up each right set forth above.

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 1D-2004-64026, if proven at a hearing, constitute cause for imposing discipline upon his Physical Therapist Assistant License.

1 9. For the purpose of resolving the Accusation without the expense and
2 uncertainty of further proceedings, Respondent admits, as alleged in paragraph 17 of the
3 accusation, that he entered flow chart treatment notes for patient 10 on 10 occasions in March
4 and April 2003 without obtaining review, dated co-signature within seven (7) days of the service
5 provided and/or obtaining a weekly, documented case conference with the supervising physical
6 therapist on the patient, in violation of Business and Professions Code section 2630 and Title 16
7 California Code of Regulations section 1398.44(f). Further, respondent admits that with respect
8 to patient 10, he failed to obtain a regularly scheduled and documented case conference between
9 his supervising physical therapist and himself, in violation of Business and Professions Code
10 section 2630 and Title 16 California Code of Regulations, section 1398.44(g).

11 10. Respondent agrees that his Physical Therapist Assistant License is subject
12 to discipline, and he agrees to be bound by the Board's imposition of discipline as set forth in the
13 Disciplinary Order below.

14 **CIRCUMSTANCES IN MITIGATION**

15 11. Respondent has never before been the subject of any disciplinary action
16 and has admitted responsibility at an early stage in the proceedings.

17 **RESERVATION**

18 12. The admissions made by Respondent herein are only for the purposes of
19 this proceeding, or any other proceedings in which the Physical Therapy Board of California, or
20 other professional licensing agency is involved, and shall not be admissible in any other criminal
21 or civil proceeding.

22 **CONTINGENCY**

23 13. This stipulation shall be subject to approval by the Physical Therapy
24 Board. Respondent understands and agrees that counsel for Complainant and the staff of the
25 Board may communicate directly with the Board regarding this stipulation and settlement,
26 without notice to or participation by Respondent. By signing the stipulation, Respondent
27 understands and agrees that she may not withdraw his agreement or seek to rescind the
28 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this

1 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
2 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
3 the parties, and the Board shall not be disqualified from further action by having considered this
4 matter.

5 14. The parties understand and agree that facsimile copies of this Stipulated
6 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
7 force and effect as the originals.

8 15. In consideration of the foregoing admissions and stipulations, the parties
9 agree that the Board may, without further notice or formal proceeding, issue and enter the
10 following Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY STIPULATED AND AGREED, based upon the above
13 stipulations and recitals, that the Board, upon its approval of the Stipulation herein set forth, may,
14 without further notice, enter a Decision whereby Respondent Michael Kinwai Kwong, as holder
15 of Physical Therapist Assistant License No. AT 6485, shall, by way of letter from the Board, be
16 publicly reprovved; provided, however, that said public reprovval is conditional upon Respondent's
17 full compliance with the following conditions precedent:

18 1. **WRITTEN EXAMINATION ON THE LAWS AND REGULATIONS**
19 **GOVERNING THE PRACTICE OF PHYSICAL THERAPY.** Within 90 days of the effective
20 date of this Decision, Respondent shall take and pass the Board's written examination on the
21 laws and regulations governing the practice of physical therapy in California. If Respondent
22 fails to pass the examination, Respondent shall be suspended from the practice of physical
23 therapist assistant until a repeat examination is successfully passed.

24 2. **COST RECOVERY.** Respondent is ordered to reimburse the Board the
25 actual and reasonable prosecutorial costs incurred by the Board in this matter in the amount of
26 \$2,774.00. Said costs shall be reduced, however, and the remainder forgiven, if Respondent pays
27 \$500.00 within 90 days of the effective date of this Decision. In the event respondent fails to pay
28 within 90 days of the effective date of this Decision, the full amount of costs shall be

1 immediately due and payable. Failure to pay the ordered amount of reimbursement, or any
2 agreed upon payment, may constitute a violation of this order. The filing of bankruptcy by
3 Respondent shall not relieve him of his responsibility to reimburse the Board. If Respondent is
4 in default of his responsibility to reimburse the Board, the Board will collect cost recovery from
5 the Franchise Tax Board, the Internal Revenue Service, or by any other means of attachment of
6 earned wages legally available to the Board. Failure to fulfill the obligation could also result in
7 attachment to Department of Motor Vehicle registrations or license renewals.

8 3. FAILURE TO COMPLY WITH ORDER. A material breach by
9 Respondent of this order shall constitute unprofessional conduct and shall be a basis for further
10 disciplinary action by the Board. In such circumstances, Complainant may reinstate the
11 Accusation in Case No. 1D 2004 64026, file an amended accusation, and/or file a supplemental
12 accusation alleging any material breach of this order by Respondent as unprofessional conduct.

13 **OTHER MATTERS**

14 1. Upon full compliance with the conditions precedent set forth in this
15 Stipulation, Respondent's license shall be publicly reprovved by way of a letter from the Board,
16 which shall be in the same form as the letter attached hereto as Exhibit B.

17 2. It is not contrary to the public interest for Respondent to practice and/or
18 perform his duties as a physical therapist assistant because he is subject to this disciplinary order.
19 Accordingly, it is not the intent of the Board that this order or the fact that Respondent has been
20 publicly reprovved shall be used as the sole basis for any third party payer to remove Respondent
21 from any list of approved providers.

22 **ACCEPTANCE**

23 I have carefully read the above Stipulated Settlement and Disciplinary Order and
24 have fully discussed it with my family and other advisors. I understand the stipulation and the
25 effect it will have on my Physical Therapist Assistant License . I enter into this Stipulated

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1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
2 bound by the Decision and Order of the Physical Therapy Board of California.

3 DATED: August 17, 2006.

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5 Original Signed By: _____
6 MICHAEL KINWAIKWONG
7 Respondent

8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Physical Therapy Board of California of the Department of
11 Consumer Affairs.

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13 DATED: August 22, 2006.

14 BILL LOCKER, Attorney General
15 of the State of California

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17 Original Signed By: _____
18 VIVIEN H. HARA
19 Deputy Attorney General
20 Attorneys for Complainant
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Exhibit A

Accusation No. 1D 2004 64026

Exhibit B

**Draft Public Reproval
Case No. 1D 2004 64026**

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHAEL KINWAI KWONG, P.T.A.

Physical Therapist Assistant
License No. AT 6485

Respondent.

Case No. 1D 2004 64026

OAH No. N2006030611

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 29, 2006.

It is so ORDERED August 30, 2006.

Original Signed By:

PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Donald A. Chu, PhD, PT, President